

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KURTIS MONSCHKE,

Petitioner,

v.

JAMES N. CROSS and ELDON VAIL,

Respondents.

NO. C11-5276/KLS

ORDER GRANTING
PETITIONER'S MOTION TO STAY

Before the court is Petitioner's motion to stay his federal habeas proceedings pending conclusion of the pending state court proceedings. ECF No. 4. Respondents do not object to Petitioner's motion. ECF No. 15. Having reviewed the motion, response, and balance of the record, the undersigned finds that it is proper to stay these proceedings until Mr. Monschke's state court proceedings have been completely adjudicated.

BACKGROUND

Mr. Monschke filed a habeas corpus petition in this Court on April 12, 2011, in which he challenges his state court convictions. ECF No. 1. On the same day, Mr. Monschke filed a motion to stay and abey his habeas proceedings. ECF No. 4. Mr. Monschke seeks a stay until his state court proceedings are concluded. On April 16, 2011, his counsel filed a motion for

1 discretionary review in the Washington Supreme Court in Case No. 85829-2. That motion is
 2 still pending.

3 **DISCUSSION**

4 The court may stay a petition where the stay would be a proper exercise of discretion.
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 6 *Rhines v. Weber*, 125 S. Ct. 1528, 1534 (2005); *see also Fetterly v. Paskett*, 997 F.2d 1295 (9th
 7 Cir. 1993); *Calderon v. United States Dist. Court (Thomas)*, 144 F.3d 618, 620 (9th Cir. 1998);
 8 *Anthony v. Cambra*, 236 F.3d 568 (9th Cir. 2000).

9 The court agrees that a stay of this federal habeas proceeding is the appropriate course
 10 of action and that neither party shall be prejudiced by such a stay. The stay shall remain in
 11 place until such time as Mr. Monschke notifies this court and the Respondent in writing that
 12 the pending state court proceedings are completed. Once the pending state court proceedings
 13 are completed, Respondent shall have 45 days to file his answer to Mr. Monschke's habeas
 14 petition from the date of the court's Order dissolving the stay.

15 Accordingly, it is **ORDERED**:

16 (1) Petitioner's motion for a stay (ECF No. 4) is **GRANTED** and this matter is
 17
 18 **STAYED** pending resolution of the state court proceedings.

19 (2) Petitioner shall advise the Court within **thirty (30)** days of receiving a final
 20 State court ruling.
 21

22 DATED this 23rd day of May, 2011.

23
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25 Karen L. Strombom
 26 United States Magistrate Judge